IN RE: PETITION FOR ZONING VARIANCE 85' W of the Intersection of (502 Allegheny Avenue)

Highland Ave. & Allegheny Ave. 9th Election District 4th Councilmanic District

John R. Bashaar, et ux Petitioners

> \* \* \* \* \* \* \* \* \* \* \* FINDINGS OF FACT AND CONCLUSIONS OF LAW

\* DEPUTY ZONING COMMISSIONER

\* OF BALTIMORE COUNTY

\* Case No. 90-353-A

The Petitioners herein request a variance to permit a rear yard setback of 24 feet in lieu of the required 30 feet for a proposed addition in accordance with Petitioner's Exhibit 1.

The Petitioners appeared and testifie. Also appearing on behalf of the Petition was Carl Scheffer, Engineer. There were no Protestants.

Testimony indicated that the subject property, known as 502 Allegheny Avenue, consists of 7,475 sq.ft. zoned D.R. 5.5 and is improved with a single family dwelling. Mr. & Mrs. Bashaar moved to the subject property in 1979 whereupon Mr. Bashaar established his law practice in the home. Such use was permitted as of right under the then Baltimore County Zoning Regulations (B.C.Z.R.), Section 1801.1.A.14.b, provided it was the bona fide residence of the attorney, did not occupy more than 25% of the total square floor area of the residence and did not involve the employment of more than one (1) non-resident professional associate or two (2) other ) non-resident employees. Mr. Bashaar presented evidence that his use of the property for a law office does not occupy more than 25% of the total square floor area of the existing residence, and testified that he is the sole professional operating from the premises and employs only one (1) o o non-resident employee, a secretary. Testimony indicated that the subject dwelling is a bungalow-style home built in approximately 1920 and consists

Baltimore County Zoning Commissioner
Office of Planning & Zoning Towson, Maryland 21204 (301) 887-3353 J. Robert Haines

Mr. & Mrs. John R. Bashaar 502 Allegheny Avenue Towson, Maryland 21204

RE: PETITION FOR ZONING VARIANCE 85' W of the Intersection of Highland and Allegheny Avenues (502 Allegheny Avenue) 9th Election District - 4th Councilmanic District John R. Rashaar, et ux - Petitioners

Case No. 90-353-A Dear Mr. & Mrs. Bashaar:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Zoning Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 887-3391.

A MNotravia ANT M. NASTAROWICZ Deputy Zoning Commissioner

for Baltimore County

Dennis F. Rasmussen

of one and one-half stories. Petitioners are desirous of modernizing and expanding the existing dwelling with a two-story addition to accommodate their growing family. The proposed addition will provide a family room and eat-in kitchen on the first floor, and a master bedroom with a bath the expansion of two existing bedrooms to provide more closet space, and the addition of a shower to an existing bath on the second floor. Due to the layout of the existing dwelling and its location on the property, the proposed addition c .not be constructed without the requested variance. Petitioners testified they discussed their plans with all adjoining neighbors who have no objections and have, in fact, indicated the proposed addition will be an improvement to the area. Testimony indicated that the relief requested will not result in any detriment to the health, safety or general welfare of the surrounding community.

It should be noted that the B.C.Z.R. were amended subsequent to Petitioners' purchase of the property in 1979 pursuant to Bill No. 105 wherein an office for an attorney now requires a special exception with the use being limited as it was in 1979. While there appears to be a legal nonconforming use of the property as a law office by Petitioner, a finding of the nonconforming use would not be proper as no notice of that issue was presented at the hearing. In the event that individuals would refute Mr. Bashaar's facts, this issue must remain open at this time. However, there being no complaint of the use, Petitioners will not be required to file a Petition for Special Exception at this time, unless they wish to do so voluntarily. To insure that the spirit and intent of the zoning regulations are followed in the interim, the variance will be granted, subject to compliance with the restrictions set forth hereinafter which will also deal with the law office use of the property.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following: whether strict compliance with requirement would

unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily

2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and

3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28

It is clear from the testimony that if the variance is granted, such use as proposed would not be contrary to the spirit of the B.C.Z.R. and would not result in substantial detriment to the public health, safety, and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this \_\_\_\_\_day of March, 1990 that the Petition for Zoning Variance to permit a rear yard setback of 24 feet in lieu of the required 30 feet for a proposed addition in accordance with Petitioner's C C Exhibit 1, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted:

1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

2) The Petitioner, John Robert Bashaar, shall be the sole professional person operating from the subject property. Mr. Bashaar's law office shall only be permitted to operate from the premises so long as the Petitioner remains a full-time resident.

3) Mr. Bashaar shall be permitted to retain only one (1) non-resident employee.

4) Petitioner's law office is limited to that area depicted in Petitioner's Exhibit 4 consisting of 280 sq.ft. total.

5) In the event a complaint is filed as to the legality of the law office, Petitioner must either establish the nonconforming use by filing the proper Petition and/or request a special exception for such use.

> ANN M. NASTAROWICZ Deputy Zoning Commissioner for Baltimore County

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We are requesting a variance of 6 feet from the current rear setback requirement of 30 feet. If the set back

requirement of 30 feet were to be strictly enforced, we would not be able to build the proposed two story addition to our home. The proposed addition would extend the rear of our house by 16 feet. This would leave a setback of 24 feet remaining between the house and the rear property line.

This variance would not cause injury to public health, safety and general welfare. Nor would it cause a hardship to any of our neighbors. We have spoken to our neighbor whose property is adjacent to ours on the rear. He expressed support for our plans. The rear of our property faces the side and back yards to the properties located on and facing the West side of Highland Avenue. The rear view from our house is that of a storage building and open spaces primarily used as backyards and vegetable gardens. There are no houses directly in the line of sight all the way to

This variance would enable us to update and improve the quality of our home. The proposed addition would give us the living space we need to create the family room, bedroom, kitchen and bath facilities which we urgently need to accommodate the needs of our growing family. These improvements would eliminate our home's deficiencies thereby making it more acceptable as a single family residence. These improvements would also increase the value of our home and would help to preserve and increase the values of all the single family residential properties in

PETITION FOR ZONING VARIANCE TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 90-353-The undersigned, legal owner(s) of the property situate in Caltimore County and which is legarihed in the description and plat attached hereio and made a part hereof, hereby petition for a

I/We do solemnly declare and affirm,

Variance from Section 1802.3.C TO PERMIT A REAR YARD SETBACK OF 24 FEET IN

LIEU OF THE REQUIRED 30 FEET.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty)

See Attached Sheet

Property is to be posted and advertised as prescribed by Zoming Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition. Logal Owner(s): Contract Purchaser: John Robert Bashaar (Type or Print Name) Sally Dawn Bashaar (Type or Print Name) Soll Com Bohon Attorney for Peditioner THE PINE NAME To Select of

of fanually, 1920, that the subject matter of this petition be advertised, as

Name, address and phone number of legal owner, con-

502 Allegheny Ave 321-7835 Towson MD. 21204

ract purchaser or representative to be contacted

John Robert Bashaar

PETITION FOR ZONING VARIANCE PRACTICAL DIFFICULTY

We need additional living space for our family. We have lived at 502 Allegheny Avenue since September 1979. At that time we did not have children. We now have a daughter who is eight years old and a son who is 14 months old. We plan to continue to make this home our permanent family residence. We enjoy living in this community. Our daughter is enrolled in Rodgers Forge Elementary School, where she is happy and doing well.

Our home is a bungalow style house, consisting of one and one-half stories. It was built in the 1920's. It requires improvements to modernize it. The first floor has a living room, dining room and a small kitchen on the East side. On the West side is a separate office space, which Mr. Bashaar has used as his law office since October 1979. There are two small bedrooms and a very small uninsulated dormer on the second floor, used primarily as storage space.

The kitchen is inadequate. It is too small to accommodate a kitchen table; there is very little space for cabinets or any other modern kitchen necessities.

Our house has no space for a family room. The formal living room has to do double duty as a living room and a play room for the children. As a result the furniture and furnishings are deteriorating faster than is reasonably to be expected.

We need to create additional space on the second level to accommodate our growing family. An additional bedroom is required for our son. The current bathroom cannot meet the needs of our family. Due to the slope of the roof, the ceiling is to low to permit the installation of a shower. The master bedroom is extremely small and has very little closet space.

We are proposing to build a two story addition onto the rear of our home. The downstairs portion of the addition would be used to create an eat-in kitchen and a family room. The upstairs space would be used for: installation of a shower in the current upstairs bathroom; creation of a master bedroom with a bath; and the enlargement of one of the two existing bedrooms for purposes of adding closet space.

90-353-A

METES AND BOUNDS DESCRIPTION

Beginning at a point on the on the North Side of Allegheny Avenue 85 feet West of the intersection of Highland and Allegheny Avenues and running thence N 13 59' 00"E for a distance of 115 feet, thence N 76 00' 00" W for a distance of 65 feet, thence S 13 59' 00" W for a distance of 115 feet of 65 feet, thence S 13 59' 00" W for a distance of 115 feet of 65 feet to the point thence S 76 00" 00" E for a distance of 65 feet to the point of the beginning and comprising a total of 7,475 square of the beginning and comprising a total of 7,475 square feet. As recorded in Deed Liber 6083 folio 0198. Also known as 502 Allegheny Avenue in the 9th Election District.

CERTIFICATE OF POSTING 90-353-A

Date of Posting Tebruary 20, 1990. : John Robert Bashaar et up Location of property: 85' N of Intersection of Highland & allegheny Grenue 502 allezheny arenue Location of Signe In front of 502 allegheny arenque Date of return: February 23, 1990 Number of Signe:

Baltimore County

Zoning Commissioner

County Office Building

111 West Chesopeake Avenue

Towson, Maryland 21204

The ming Commissioner of Ballimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, to-Chied at 111 W. Chesapeake Avenue in Townon, Maryland 21204 as follows:

Petition for Zoning Variance Case numbers 90-353-A 85' W of intersection of High-sand Ave. & Alleghery Ave. 502 Alleghery Averuse 502 Alleghery Averuse 4th Councilments 4th Councilments Petitioner(s): John Robert Beehsar, et us Hearing Dets: Thursday, Mar. 15, 1990 at 11:00 a.m.

Variance: to permit a rear yard average of 24 ft. in ilou of the required 30 ft.
In the event that this Petition is granted, a building permit may be bessed within the thirty (30) day

119000550

PUBLIC HEARING FEES 080 -POSTING SIGNS / ADVERTISING 1 X TOTAL: \$142.77 LAST NAME OF OWNER: BASHAAR

Check # 889

B B 048\*\*\*\*14277:a 8158F Please make checks payable to: Baltimore County

CERTIFICATE OF PUBLICATION

TOWSON, MD., - Jebrusky 15, 19.90 published in the TOWSON TIMES, a weekly newspaper printed and published in Towson, Baltimore County, Md., once in each

5. Zebe Ohl

THIS PROPERTY IS NOT IN CRITICAL AREA

12'-6" X11-0

OFFICE

13' X 11

NOTE: PROPOSED ADDI-TION 28 XIG W 24' REAR SET.

# 504

PLAT FOR VARIANCE

ZONING - D.R. 5.5

DISTRICT - # 9

SUBDIVISION - M. A.

OWNER - JOHN R. BASHAAR

5H.10f2

RECEPT

LOT SIZE: 7475 S.F.

0.17 ACRE

Exhibit

MREMRS J. BASHAAR

21204

#500

85.0' TO HIGHLAND AVE.

502 ALLEGHENY

(301)321-7835

VARIANCE CASE 90-353-A

90-353-A

N 76° 00' 00" W 35.0"

FRAME

# 502

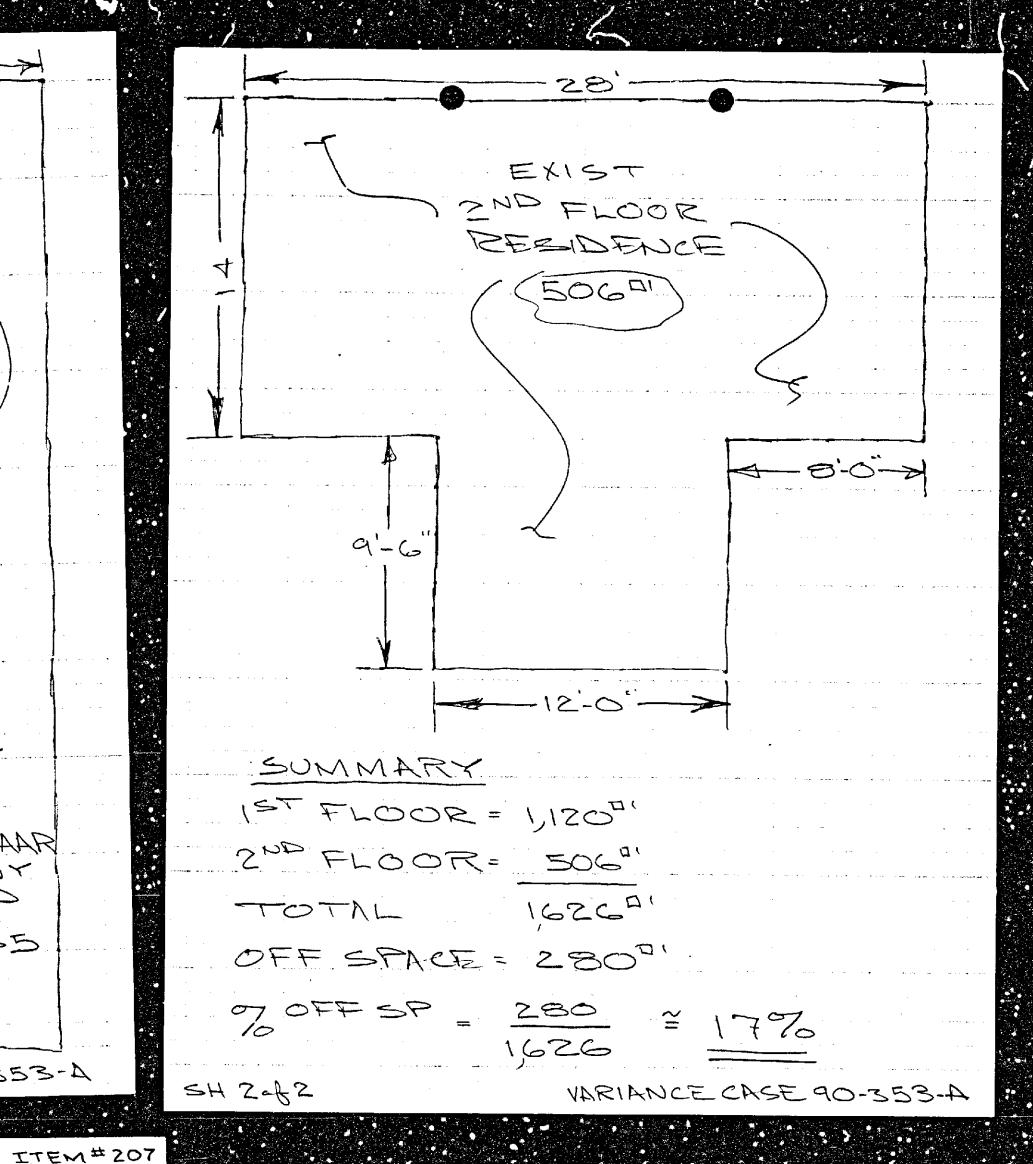
FCR S 76' 00' 00' E 65.0' FCR

ALLEGHENY AVENUE

PARCEL 1 & 2

LIBER 3568/159

TOWSON. MD



Baltimore County Zoning Commissioner Office of Planning & Zoning Towson, Maryland 21204 (301) 887-3353 J. Robert Haines
Zoning Commissioner DATE 3/2/90 Mr. & Mrs. John Robert Bashaar 502 Allegheny Avenue Towson, Maryland 21204

Re: Petition for Zoning Variance CASE NUMBER: 9D-353-A 85° W of Intersection of Highland Avenue & Allegheny Avenue 502 Allegheny Avenue 9th Claction District - 4th Councilmanic Petitioner(s): John Robert Bashaar, et ux HEARING: THURSDAY, MARCH 15, 1990 at 11:00 a.m.

Dear Mr. & Mrs. Bashaar:

Please be advised that  $\frac{142.77}{}$  is due for advertising and posting of the above captioned property.

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S)
RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE.

DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY

UNTIL THE DAY OF THE HEARING.

Please make your check payable to Baltimore County, Maryland. Bring the check and the sign & post set(s) to the Zoning Office, County Office Building. 111 W. Chesapeake Avenue, Room 113, Towson, Maryland fifteen (15) minutes before your hearing is scheduled to begin.

Be advised that should you fail to return the sign & post set(s), there will be an additional \$50.00 added to the above amount for each such set not returned.

is in effect in Baltimore

Jally + John Bashaar have been my next door neighbors for the past den years. They have inenste them to hind a. addin to the rear of their This is to advise you that have no object in to their proposal Dy helieve I will be my to Their property La

Phere face I lespeal fully Pariance Les granted. TofA Olag herry Avs

Baltimore County Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353 J. Robert Haines Zoning Commussioner

NOTICE OF HEARING



The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 1D6 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as Dennis F. Rasmussen

Petition for Zoning Variance CASE NUMBER: 90-353-A

85' W of Intersection of Highland Avenue : Allegheny Avenue 9th Election District - 4th Councilmanic

Petitioner(s): John Robert Bashaar, et ux HEARING: THURSDAY, MARCH 15, 1990 at 11:00 a.m.

Variance: To permit a rear yard setback of 24 ft. in lieu of the required 30 ft.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a (30) day appeal period. The Coming Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or pre-

(If "PHASE II" of the "SNOW EMERCENCY PLAN" is in effect in Baltimore County on the above hearing date, the Hearing will be postponed. In the event of snow, telephone 387-239) to

I. Robert Strines ZONING COMMISSIONER BALTIMORE COUNTY, MARYLAND

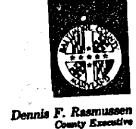
NOTE: (If "PHASE II" of the "SNOW EMERGENCY PLAN"

Dennis F. Rasmusser

cc: r. & Mrs. Bashaar

Baltimore County Zoning Commissioner
Office of Planning & Zoning Towson, Maryland 21204 (301) 887-3353 J. Robert Haines
Zoning Commissioner

March 6, 1990



Mr. & Mrs. John R. Bashaar 502 Allegheny Avenue Towson, MD 21204

RE: Item No. 207, Case No. 90-353-A Petitioner: John R. Bashaar Petition for Zoning Variance

Dear Mr. & Mrs. Bashaar:

The Zoning Plans Advisory Committee has review. the plans submitted with the above referenced petition. The following comments are not with the above referenced petition. The to lowing comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing problems with regard to the development plans that may have a problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the mambers of the Committee at this time that offer or request information on your petition. If at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JULIE WINIARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.

> JAMES E. DYER Zoning Plans Advisory Committee

Enclosures

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353 J. Robert Haines

Ecning Commissioner



Your petition has been received and accepted for filing this

ZONING COMMISSIONER

Zoning Plans Advisory Committee

Petitioner: John R. Bashaar Petitioner's Attorney:

10th day of January, 1989.

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

DATE: January 22, 1990 J. Robert Haines

Zoring Commissioner

Pat Keller, Deputy Director Office of Planning and Zoning

SUBJECT: John Robert Bashaar, Item 207

The Petitioner requests a Variance to permit a rear yard setback of 24 ft. in lieu of the required 30 ft.

In reference to the Petitioner's request, staff offers no

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3211.

PK/JL/cmm

JAN 2 € 1990

Baltimore County
Department of Public Works
Bureau of Traffic Engineering
Courts Building, Suite 405
Towson, Maryland 21204
(301) 887-3554



January 11, 1990

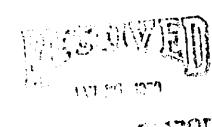
J. Robert Haines Zoning Commissioner County Office Building Towson, MD 21204

Dear Mr. Haines:

The Bureau of Traffic Engineering has no comments for items number 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 210 and 212.

Very truly yours,

Muchay & thering -Michael S. Flanigan, Traffic Engineer Assoc. II



ASSESSED OF THE

Baltimore County Fire Department 700 East Joppa Road, Suite 901 Towson, Maryland 21204-5500 (301) 887-4500 Paul H. Reincke

JANUARY 11, 1990



Dennis F. Rasmussen County Executive

J. Robert Haines Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, MD 21204

RE: Property Owner:

JOHN ROBERT BASHAAR

Location:

#502 ALLEGHENY AVENUE

Item No.: 207

Zoning Agenda: JANUARY 9, 1990

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1988 edition prior to occupancy.

Planwing Group Special Inspection Division

JK/KEK

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

TO: Zoning Advisory Committee DATE: January 19, 1990

FROM: Robert W. Bowling, P.E.

Zoning Advisory Committee Meeting for January 9, 1990

The Developers Engineering Division has reviewed the subject zoning items and we have no comments for Items 198, 199, 200, 201, 202, 204, 207, 208, 210 and 212.

For Items 203, 205, and 206 the County Review Group Comments for each item still apply,

Developers Engineering Division

RWB:s